

REMARKS

The present communication is responsive to the Office Action mailed April 3, 2008. Applicants submit a two-month extension of the term extending the period of reply from July 3, 2008 up to and including September 3, 2008 herewith.

Paragraph [0001] of the specification has been amended to correct priority information. An amended Application Data Sheet and a Request to Correct Filing Receipt are included with this Amendment.

Claims 1-14, and 17-20 were rejected in the Action. Claim 1 has been amended, and no claims have been added or cancelled herein. Therefore, claims 1-14 and 17-20 remain pending in the present application. No new matter has been added. Applicants set forth remarks relating to the Action below.

In the present Action, the Examiner rejected claims 1-10, 13, 14 and 17-20 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,997,432 to Keller ("Keller") in view of U.S. Patent No. 4,303,268 to Davidson ("Davidson"), and claims 11 and 12 under 35 U.S.C. §103(a) as being unpatentable over Keller in view of Davidson in further view of U.S. Patent No. 4,317,387 to Meyers ("Meyers").

In the previous Amendment filed on December 21st, Applicants amended independent claim 1 to recite that the bore of the sleeve defines a cross-section on a plane perpendicular to the longitudinal axis of the extension, the cross-section having a width that is greater than a depth. This recitation defines the bore as being somewhat oblong such that one using the manipulation device may rotate the sleeve in order to have the extensions of the device contract or move away from one another depending on the position of the sleeve. The Examiner is now citing Davidson as teaching same.

Applicants respectfully disagree with the Examiner's use of *Davidson* in combination with *Keller* in rejecting claims 1-10, 13, 14, and 17-20 as obvious and traverse. First, Applicants do not believe *Davidson* to be analogous art. In fact, *Davidson* is directed to an apparatus for removing imbedded ticks. There is no disclosure anywhere in the specification of *Davidson* that the device disclosed therein is meant for use or even could be used in any surgical application, much less a complicated spinal procedure. Further, locking sleeve 35 is slidably mounted on first end portions 23 and 24 of locking tongs 20, and is movable longitudinally thereon between first positions illustrated in Figures 2, 5 and 7 and second positions illustrated in Figures 3, 6 and 8. Also see the disclosure set forth in col.4, ll.43-47 of *Davidson*. Further still, locking sleeve 35 of *Davidson* is only rotatable in order to prevent its removal from the remainder of the structure, not to move the first end portions 23 and 24 together. Rather, the movement of first end portions 23 and 24 together is accomplished by the aforementioned sliding movement of locking sleeve 35.

In contrast, the rotatable sleeve of the present invention is integral with the device and not meant to slide like the sleeve taught in *Davidson*. The only way the extensions of the present invention are moved with respect to each other is through rotation of the sleeve. In the interests of expediting prosecution, Applicants have amended claim 1 above to more specifically capture this configuration. Therefore, a *prima facie* case of obviousness cannot be made with respect to amended claim 1 through the combination of *Keller* and *Davidson*. Further, as outlined above, Applicants submit that one of ordinary skill in the art at the time of the present invention would not have looked to combine the teachings of *Davidson* with *Keller* given its non-analogous nature. For the foregoing reason, Applicants respectfully submit amended claim 1 is not

obviated and is allowable over Keller in view of Davidson. Claims 2-10, 13, 14, and 17-20 are unobvious, *inter alia*, because of their dependence from claim 1, or an intervening claim. A dependent claim is necessarily narrower than the claim from which it depends.

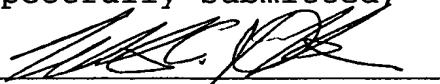
As it is believed that all of the rejections set forth in the Office Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone Applicants' attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: September 3, 2008

Respectfully submitted,

By 

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